

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOSEPH Mc DANIELS,
Plaintiff,

v.

TOM SUSS, *et al.*,
Defendants.

Case No. C07-5221RBL

**AMENDED ORDER ADOPTING
REPORT AND
RECOMMENDATION**

The Court, having reviewed the cross motions for summary judgment with attached documents, the compliant, the Report and Recommendation of Magistrate Judge J. Kelley Arnold, objections to the Report and Recommendation [Dkt. #s 28 and 31], and the remaining record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation;
- (2) Defendants Suss and Barnes motion for summary judgment is **GRANTED**. All claims relating to plaintiff's exercise of religion at Mc Neil Island Corrections Center are **DISMISSED**. Plaintiff claims relating to his ability to purchase fragrances, prayer oils, are **DISMISSED WITHOUT PREJUDICE**. All other claims are against these two defendants are **DISMISSED WITH PREJUDICE**.
- (3) Defendant Alden's motion for summary judgment and Plaintiff's cross motion for summary judgment are **DENIED**. There are material issues of fact regarding whether plaintiff sent, or defendant Alden received, "kites" in September of 2006 indicating

1 plaintiff's desire to be part of the Ramadan fast.

- 2 (4) The Clerk is directed to send copies of this Order to plaintiff, counsel for any
3 defendants who have appeared, and to the Hon. J. Kelley Arnold.

4 DATED this 31st day of March, 2008.

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6 RONALD B. LEIGHTON
7 UNITED STATES DISTRICT JUDGE
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